

Department of Planning and Environment

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Sirius Building – Stratum Subdivision

Development Application Assessment Report (DA 23/5644 or PAN-329997)

October 2023





Acknowledgement of Country

The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the Traditional Custodians of the land and show our respect for Elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Assessment Report

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Preface

This assessment report provides a record of the Department of Planning and Environment's assessment and evaluation of the Development Application for the stratum subdivision of 2-60 Cumberland Street, The Rocks, lodged by Sirius Developments Pty Ltd. The report includes:

- an explanation of who the consent authority is
- an assessment of the project against government policy and statutory requirements, including mandatory considerations
- a demonstration of how matters raised by the community and other stakeholders have been considered
- an explanation of any changes made to the project during the assessment process
- an assessment of the likely environmental, social and economic impacts of the project
- an evaluation which weighs up the likely impacts and benefits of the project, having regard to the proposed mitigations, offsets, community views and expert advice; and provides a view on whether the impacts are on balance, acceptable
- a recommendation to the decision-maker, along with the reasons for the recommendation, to assist them in making an informed decision about whether development consent for the project should be granted and any conditions that should be imposed.

Executive Summary

This report details the Department's assessment of the Development Application (DA 23/5644) for the stratum subdivision of 2-60 Cumberland Street, The Rocks (Sirius site).

This report will be provided to the delegate of the Minister for Planning and Public Spaces for their consideration when deciding whether to grant consent to the Development Application.

Project

Sirius Developments Pty Ltd (the Applicant) seeks approval for the stratum subdivision of the Sirius site to establish three separate stratum lots for the residential, commercial and retail components of an approved building. The project is located at 2-60 Cumberland Street, The Rocks in the City of Sydney local government area (LGA).

Statutory context

The Minister for Planning and Public Spaces is the consent authority under Clause 4, Appendix 7 of the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 (Eastern Harbour City SEPP).

The application is permissible with consent under clause 6A, part 2 of Appendix 7 of the Eastern Harbour City SEPP.

Engagement

The Department exhibited the Statement of Environmental Effects (SEE) from 1 June 2023 to 14 June 2023. During the exhibition period, the Department received a submission from Place Management NSW (PM NSW) advising they had no objection to the proposal.

No public submissions were received during the exhibition period.

A submission making comments from City of Sydney Council (Council) was received after the statutory public exhibition period. Council's submission requested confirmation there were no building encroachments into the Cumberland Street road reserve.

Council also recommended conditions, including compliance with SSD 10384 (as amended), maximum height and FSR requirements, installation of public art requirements, creation of easements and covenants, future subdivision requirements and restrictions on the use of the residential development and car spaces.

The Applicant submitted a submissions report on 25 August 2023 to address the matters raised by Council, including the recommended conditions. The Applicant provided further information on 15 September 2023, confirming the approved building to be subdivided does not encroach into the Cumberland Street road reserve.

Assessment

The Department has assessed the merits of the proposed stratum subdivision with consideration of the Government agency and Council comments, and considers the proposed stratum subdivision acceptable as:

- it facilitates the separate ownership and management of retail, commercial and residential components of the Sirius site, consistent with the uses approved under the separate application for the redevelopment of this site (SSD 10384)
- the application does not propose any physical works or changes to the uses that were approved under SSD 10384, and therefore does not generate any material environmental impacts
- the use of the approved building would be managed in accordance with the existing conditions in the development consent for the redevelopment of the Sirius site (SSD 10384)
- the application can be appropriately managed in accordance with the recommended conditions of consent, including conditions restricting the allocation of on-site parking and easements facilitating ongoing access to services, lifts and communal spaces.

Conclusion

The Department considers the proposal is acceptable as it facilitates the separate use, management and operation of retail, commercial and residential uses that were approved this site under SSD 10384.

The Department's assessment concludes that the site is suitable for the proposal and is in the public interest. It is, therefore, recommended that the application be approved, subject to conditions.

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1 Introduction

1.1 The proposal

On 26 May 2023, the Applicant (Sirius Developments Pty Ltd) lodged a Development Application (DA 23/5644) for the stratum subdivision of the Sirius site to establish three separate stratum lots for the residential, commercial and retail components of the building.

1.2 Project location

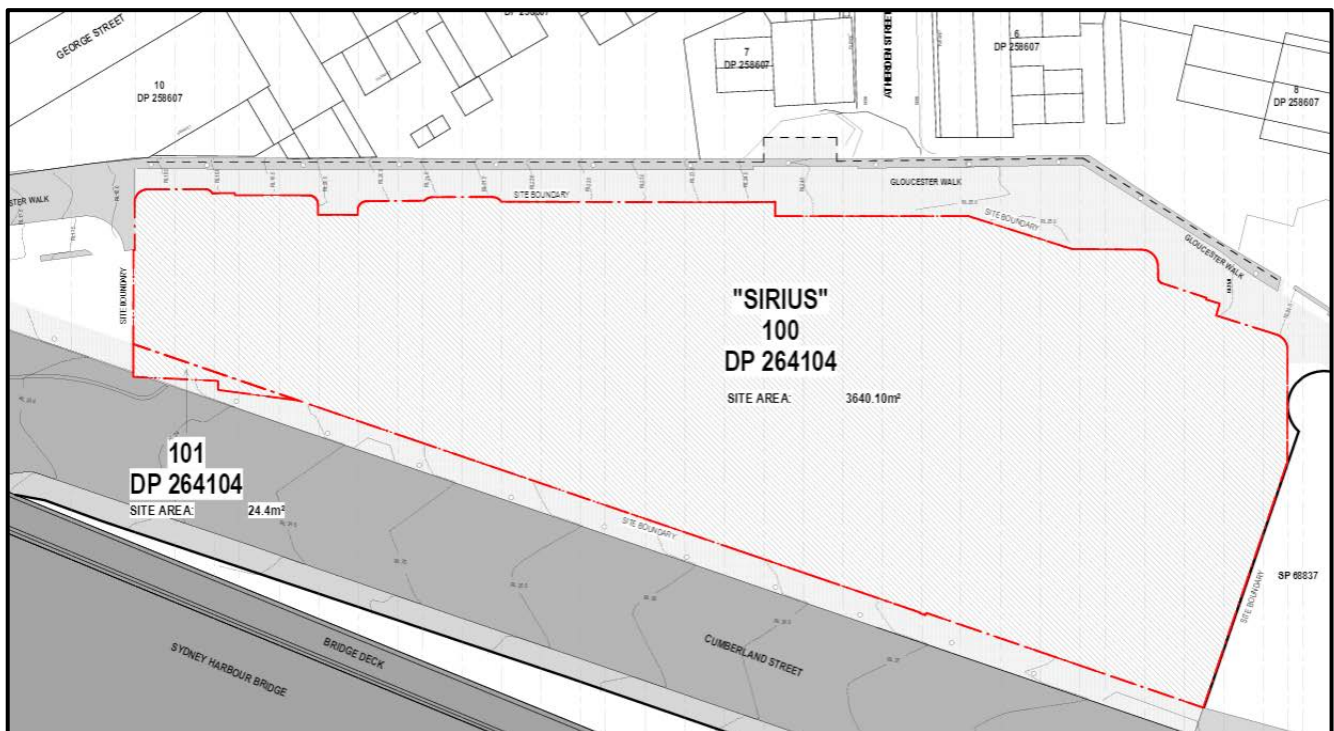
The site is located at 2-60 Cumberland Street, The Rocks, (**Figure 1**) and is within the City of Sydney Local Government Area (LGA). The site is irregular in shape with an area of 3,664.5 m² and a dual frontage to Cumberland Street (west) and Gloucester Walk (east). The Sirius site comprises of two lots, being Lot 100 and Lot 101 in DP 264104 (as shown in **Figure 2**)

The surrounding area contains a mix of commercial, retail, and residential uses.

The site is not listed as a heritage item, but is in proximity of several State heritage items and is located within the Rocks Conservation Area as part of PN NSW's Section 170 Heritage and Conservation Register.



Figure 1 | Site (outlined in red) and surrounding context (source: Modification Report)



1.3 Related projects and works

On 18 June 2021, the Director, Key Sites Assessments granted consent for alterations and additions to the existing Sirius building, including its use as a mixed-use building (SSD 10384). The key elements of the approval included:

- an increase in gross floor area by 1,881.20 m² to 8,419.20 m² and an increase in overall height by 5.4 m to RL 67.4 m
- use of the site for 76 residential apartments, commercial (SOHO apartments) and retail premises
- a new two storey building facing Cumberland Street to house retail premises, a pool and provide basement vehicle access
- a pedestrian through-site link between Cumberland Street and Gloucester Walk
- landscaping, public art and off-site public domain works.

Six modification applications have been received by the Department in relation to the site (**Table 1**), with one having been withdrawn.

Table 1 | Summary of modifications

Modification	Description	Decision-maker	Type	Date
MOD 1	Removal and replacement of two trees on Gloucester Walk	Executive Director	4.55(1A)	28 March 2022
MOD 2	Various internal and external design changes	Team Leader	4.55(1A)	3 February 2023
MOD 3	Amendments to awning and CC staging	Team Leader	4.55(1A)	18 October 2022
MOD 4	Changes to tower crown to accommodate rooftop services	Team Leader	4.55(1A)	23 March 2023
MOD 5	Addition of rooftop terrace, swimming pool and associated balustrading and access stairs	Team Leader	4.55(1A)	Withdrawn
MOD 6	Changes to the approved plans to reflect design development updates and amendments to construction certificate staging	Team Leader	4.55(1A)	17 August 2023

2 Project

2.1 Project overview

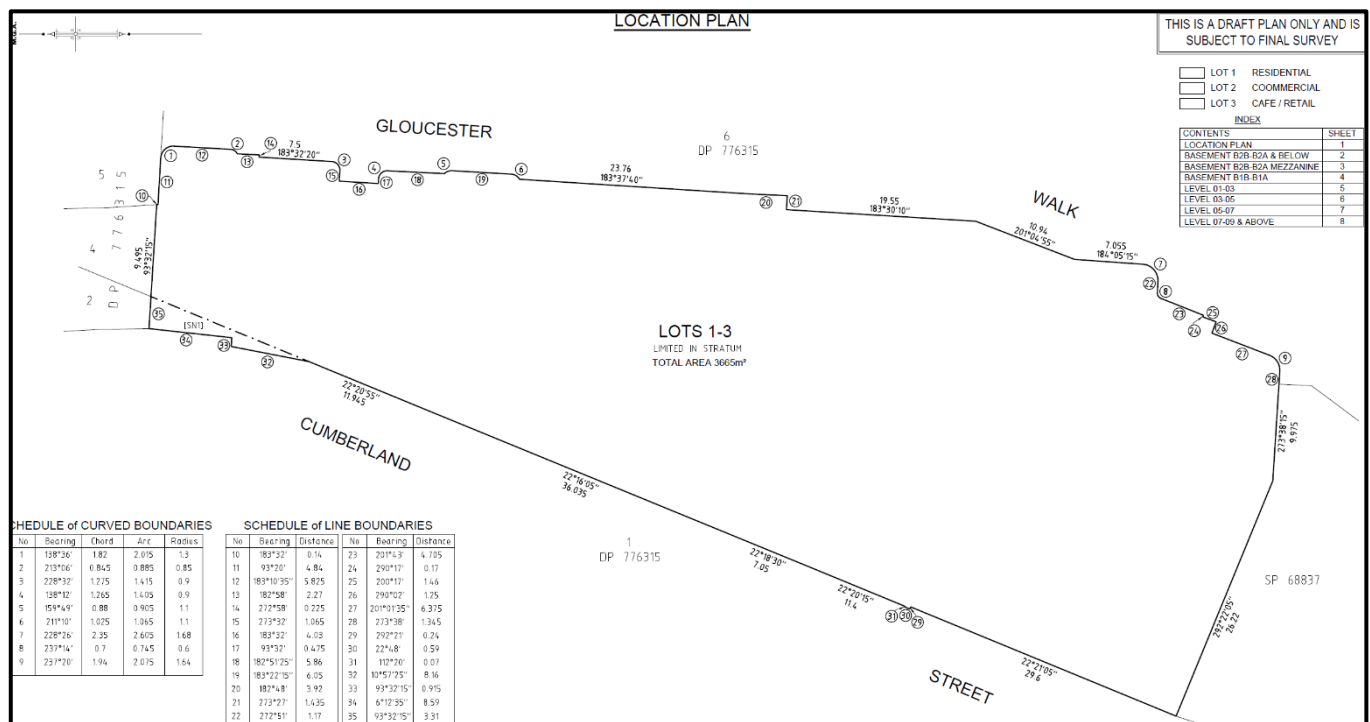
On 26 May 2023, the Applicant (Sirius Developments Pty Ltd) lodged a Development Application (DA 23/5644) to stratum subdivide the Sirius site and establish the following lots:

- Stratum Lot 1: Residential stratum comprising 75 apartments and common areas
- Stratum Lot 2: Commercial stratum comprising 4 SoHos
- Stratum Lot 3: Retail stratum comprising 3 retail tenancies

The proposal also seeks to establish easements for the following purposes:

- access to the basement for storage, servicing, and waste removal, including use of the vehicle lift and loading dock
- access to the basement for the allocated bicycle parking and end-of-trip facilities
- pedestrian access to the building's through-site link
- access to the basement gymnasium (gym).

The proposed stratum subdivision plans are shown at **Figure 3** to **Figure 5**.



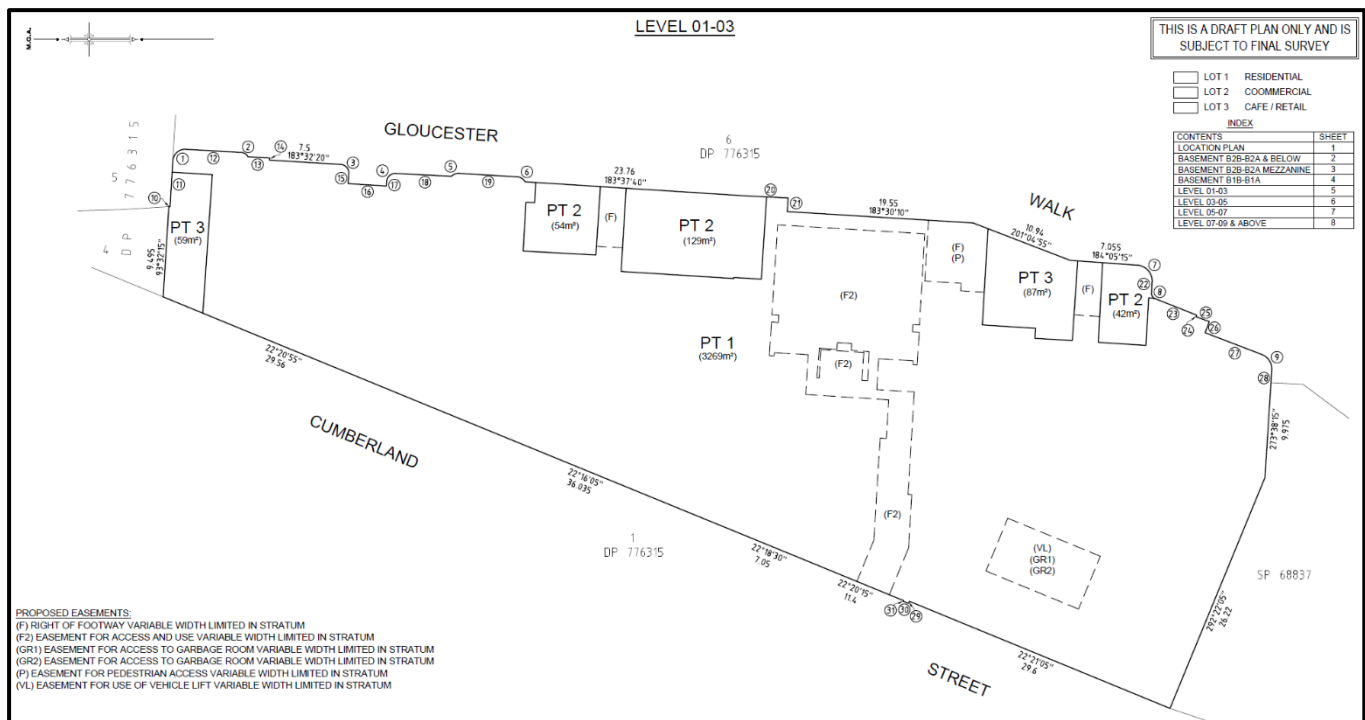


Figure 4 | Levels 1 – 3 (source: Applicant's proposed plans)

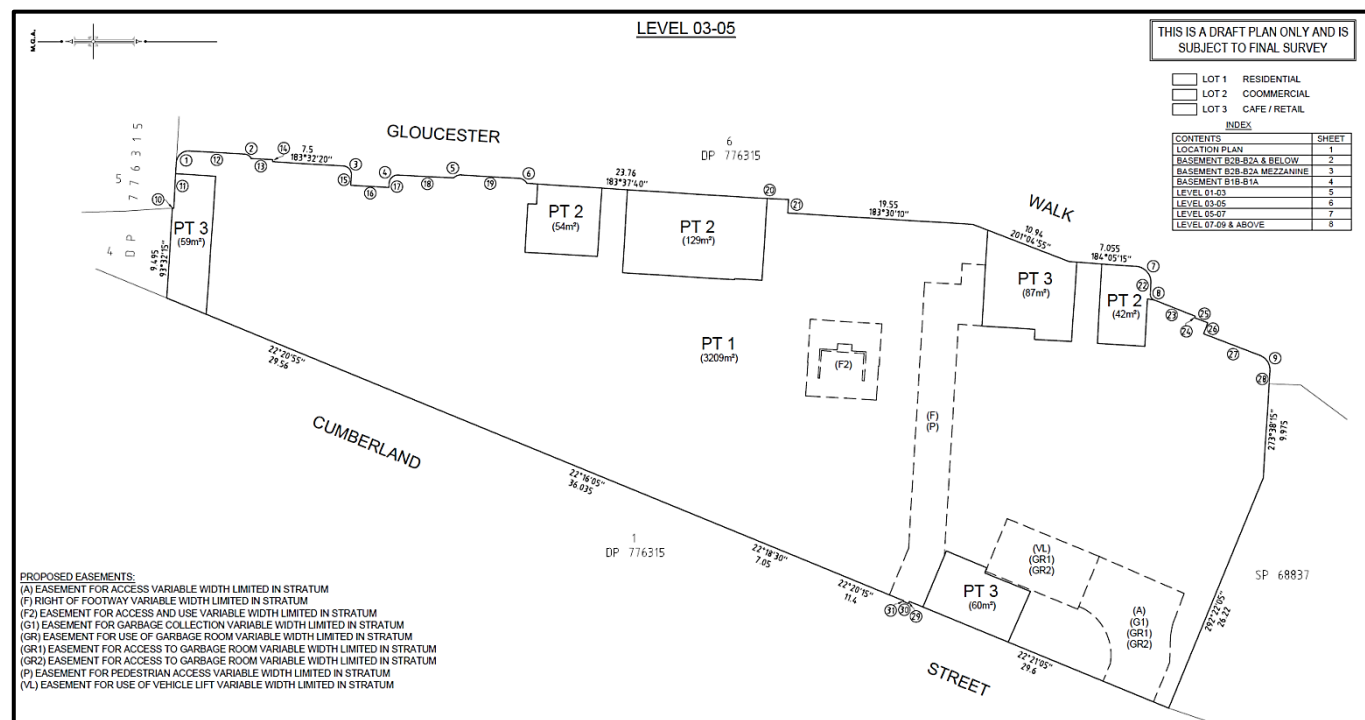


Figure 5 | Levels 3 – 5 (source: Applicant's proposed plans)

3 Statutory context

3.1 Permissibility and assessment pathway

Details of the legal pathway under which consent is sought and the permissibility of the project are provided in **Table 2** below.

Table 2 | Permissibility and assessment pathway

Consideration	Description
Consent authority	Minister for Planning and Public Spaces The Minister for Planning and Public Spaces is the consent authority under Clause 4, Appendix 7 of the Eastern Harbour City SEPP.
Decision-maker	Delegate position In accordance with the Minister's delegation, the Director, Key Sites Assessments may determine the application as: <ul style="list-style-type: none">• the relevant Council has not made an objection• there are less than 15 public submissions in the nature of objection• a political disclosure statement has not been made.
Permissibility	Permissible with consent The Sydney Local Environmental Plan Amendment (Sirius Site) 2023 permits subdivision with development consent. Therefore, stratum subdivision is permissible with consent.

3.2 Mandatory matters for consideration

3.2.1 Matters of consideration required by the EP&A Act

Section 4.15 of the EP&A Act sets out matters to be considered by a consent authority when determining a development application. The Department's consideration of these matters is shown in **Table 3** below.

Table 3 | Matters for consideration

Matter for consideration	Department's assessment
Environmental planning instruments, proposed instruments, development control plans & planning agreements	Appendix C
EP&A Regulation	Appendix C

Matter for consideration	Department's assessment
Likely impacts	Section 5 - Assessment
Suitability of the site	Section 1.3 – Related projects and works and Section 5 - Assessment
Public submissions	Section 4 - Engagement and Section 5 - Assessment
Public interest	Section 4 - Engagement, Section 5 - Assessment and Section 6 - Evaluation

3.2.2 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the project is consistent with the relevant objects of the EP&A Act (s 1.3), including the principles of ecologically sustainable development. Consideration of those factors is described in **Appendix C**.

The Department is satisfied that the development is consistent with the objectives of the EP&A Act and the principles of ecologically sustainable development (ESD).

4 Engagement

4.1 Exhibition of the DA

4.1.1 Public exhibition of the DA

In accordance with Schedule 1 of the EP&A Act and the Department's Community Participation Plan, the Department publicly exhibited the application for 14 days from 1 June 2023 to 14 June 2023. The application was exhibited on the NSW Planning Portal.

The Department also notified adjoining landholders in writing, including PM NSW and City of Sydney Council.

4.1.2 Summary of submissions

In response to the exhibition of the DA, the Department received no public submissions.

PM NSW advised they had no objection to the proposal and provided no comments.

A submission from City of Sydney Council (Council) was received after the statutory public exhibition period and provided comments on the proposal.

4.1.3 Summary of council submissions

A summary of the advice received from Council is provided at **Table 4**.

Table 4 | Summary of issues raised by council

Council	Submission summary
Statement of Environmental Effects	<p>Council reviewed the proposal and provided the following comments:</p> <ul style="list-style-type: none">confirm the building does not encroach into the Cumberland Street road reserve (Lot 1 in DP 776315, and Lot 101 in DP 264104 that is limited in stratum), noting the architectural basement design for the approved building appears to extend beyond the site boundaryobtain landowners consent for the reconstruction of the drainage network within Gloucester Walk (Lot 6 in DP 776315)create a positive covenant over the water quality chamber in the basement for maintenance and repairimpose Council's recommended conditions ensuring compliance with the overarching development application for the building (SSD 10384), the approved maximum building height and GFA, the installation of public art, the creation of easements and covenants, and restrictions on the use of car spaces.

Council	Submission summary
Response to Submissions	<p>Council reviewed the proposal and provided the following comments:</p> <ul style="list-style-type: none"> • further evidence is required that the proposed stratum subdivision does not impact Lot 101 DP 264104 of the Cumberland Street road reserve • Council does not agree that the reconstruction of the drainage network in Gloucester Walk (Lot 6 in DP 776315) is not relevant to the application

4.2 Response to submissions

Following exhibition of the application, the Department placed copies of the submissions received from Council and PM NSW on its website and requested the Applicant provide a response to Council.

On 25 August 2023, the Applicant submitted a Response to Submissions (RtS) report.

The RtS report stated that the comments made by Council on a potential encroachment into the Cumberland Street road reserve and the need for landowners consent for stormwater works in Gloucester Walk were not relevant to the stratum subdivision.

The Applicant also provided a response to the conditions that were recommended by Council, including:

- deleting the recommended condition that public art be installed prior to issuing any Occupation Certificate, noting that this condition is not relevant to the DA (and is separately managed under Condition D4 of SSD 10384)
- requesting that references to Council in the recommended conditions be updated to instead reference the Department
- requesting that the power to issue the Subdivision Certificate be granted to the Private Certifying Authority rather than Council
- requesting that a Building/Strata Management Statement be provided prior to the Subdivision Certificate
- requesting that a condition indemnifying Council against loss, damage or liability in the public through-site link instead refer to PM NSW as the landowner

The Department requested advice from Council on the Applicant's RtS, which Council responded to on 1 September 2023.

4.3 Request for Further Information

The Department issued a Request for Further Information (RFI) on 13 September 2023 seeking confirmation that the building to be subdivided does not encroach into the Cumberland Street road reserve, and seeking further responses to Council's recommended conditions of consent.

On 15 September 2023, the Applicant submitted a response to the RFI advising that the building's basement wall is approved to be constructed along the boundary of Lot 100 in DP 264104 and would not extend beyond this point. Lot 101 in DP 264104 remains unchanged and is part of an existing

basement cut that was created during the construction of the original building in 1980. This existing void space will not be used or relied on as part of the stratum subdivision.

It was further advised that any stormwater works occurring in Gloucester Walk are not proposed as part of this application, which is a paperlot subdivision and does not seek to undertake any physical works via a Subdivision Works Certificate.

5 Assessment

The Department has considered the proposal, the issues raised in submissions, and the Applicant's response in its assessment of the application. The Department's consideration of the proposal is provided below.

5.1 Stratum Subdivision

Stratum subdivision enables the different land uses in the approved building under SSD 10384 to be separately owned and managed. Because these different land uses are limited in height and depth (being contained to specific floors of the approved building), Torrens Title subdivision is not possible. The strata subdivision of individual units and common areas would also be pursued separately following the stratum subdivision of the site.

The proposal seeks consent for three stratum lots for the residential, commercial and retail components of the building, as follows:

- Stratum Lot 1: Residential stratum (75 apartments and common areas)
- Stratum Lot 2: Commercial stratum (4 Soho's)
- Stratum Lot 3: Retail stratum (3 retail tenancies)

The application also seeks to impose easements to enable access to the basement including the vehicle lift, loading bay and waste rooms for servicing and waste removal, pedestrian access through the building including the through-site link from Cumberland Street to Gloucester Walk, and access to shared facilities such as bicycle parking, end of trip facilities, and the gym.

PM NSW raised no concerns with the proposal.

Council did not object to the proposal but requested confirmation that the building would not encroach into the Cumberland Street road reserve. In addition, Council requested that landowners consent must be obtained for stormwater works occurring in Gloucester Walk and a positive covenant must be imposed to repair and maintain the basement water quality chamber, and also recommended a number of detailed conditions.

As part of the RtS and RFI responses, the Applicant confirmed that the approved building's basement wall would be constructed along the boundary of Lot 100 in DP 264104 and would not extend beyond this point into the Cumberland Street road reserve. Lot 101 in DP 264104 would remain unchanged, and would not be used or relied on as part of the stratum subdivision. The Applicant further confirmed that no stormwater works or physical works of any kind were proposed as part of this DA and agreed to imposing a positive covenant and other conditions as recommended by Council.

Figure 6 illustrates the basement extent approved under SSD 10384 would not encroach into Lot 101 in DP 264104.

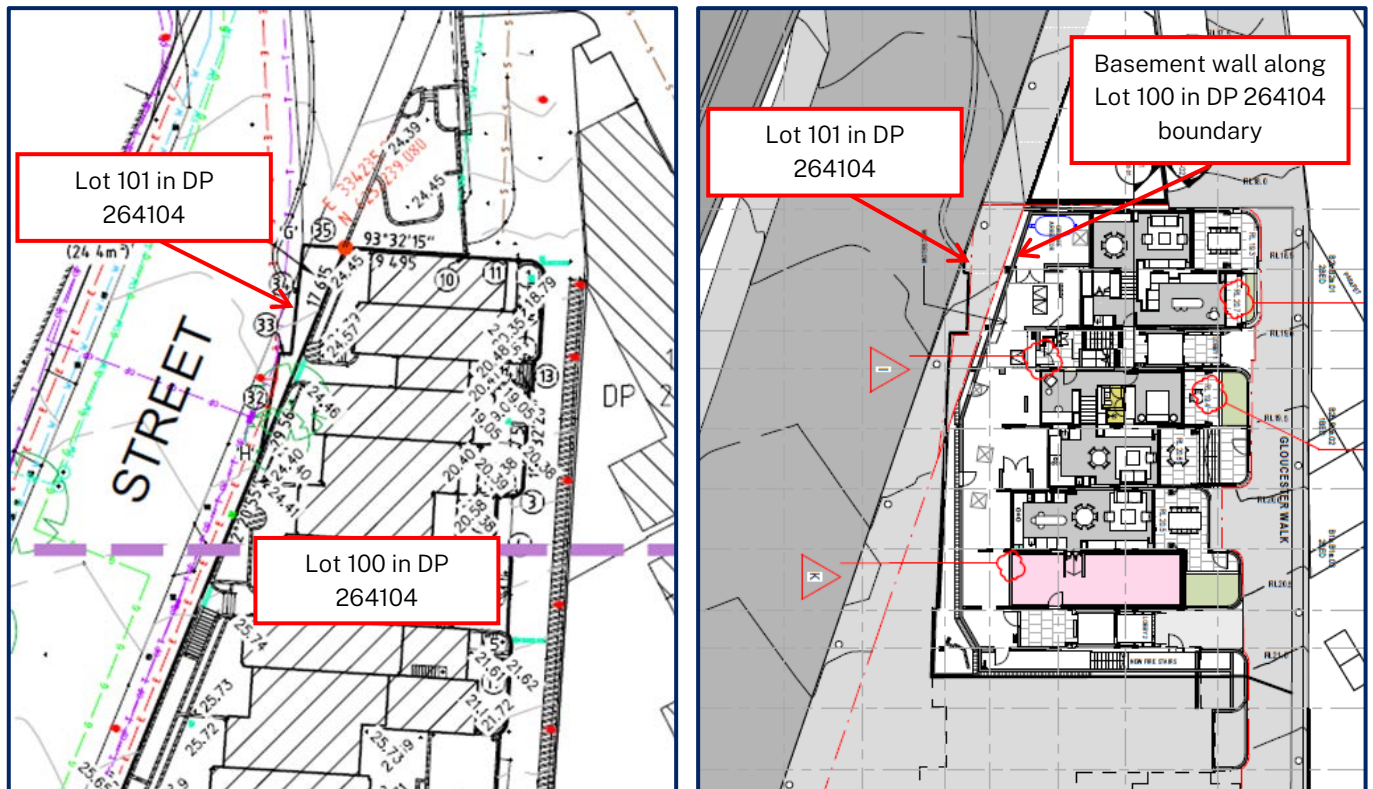


Figure 6 | Extent of works in relation to Lot 101 on DP 264104: Detailed site survey (left) and SSD 10384 Approved Plans ((right) source: SSD 10384 EIS and SSD 10384 MOD 6)

The Department has assessed the merits of the proposed subdivision and the matters raised in Council’s submissions and considers the proposed stratum subdivision acceptable as:

- it is consistent with the uses approved as part of the redevelopment of the Sirius building (SSD 10384) and would facilitate the separate use, ownership and management of the retail, commercial and residential components of the building
- the proposed easements enable ongoing access to services, lifts and shared facilities as well as the pedestrian through-site link
- the use of the approved building would be managed in accordance with the existing conditions in the development consent for the redevelopment of the Sirius site (SSD 10384)
- the application does not involve any physical works and would not result in additional environmental impacts.

The Department agrees with the recommended conditions from Council, including creating easements, restrictions on use and positive covenants prior to issuing the Subdivision Certificate, and also recommends limiting the consent to exclude physical works and any encroachment into or use of a road reserve.

Subject to the recommended conditions, the Department is satisfied the proposed stratum subdivision is acceptable.

6 Evaluation

The Department's assessment has considered the relevant matters and objects of the EP&A Act, including, advice from Government agencies and Council's submissions (**Section 4**). The Department has recommended a range of conditions to manage ongoing operational aspects of the development and any potential impacts.

The Department's assessment concludes that the proposal is acceptable, subject to conditions, as:

- it facilitates the separate ownership and management of retail, commercial and residential components of the Sirius site, consistent with the uses approved under the separate application for the redevelopment of this site (SSD 10384)
- the application does not propose any physical works or changes to the uses that were approved under SSD 10384, and therefore would not generate any additional environmental impacts
- the use of the approved building would be managed in accordance with the existing conditions in the development consent for the redevelopment of the Sirius site (SSD 10384).

The Department's assessment, therefore, concludes the proposal is in the public interest and recommends the application be approved, subject to the recommended conditions.

7 Recommendation

It is recommended that the Acting Director, Key Sites Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to grant consent to the application
- **agrees** with the key reasons for approval listed in the notice of decision
- **grants consent** for the application in respect of the stratum subdivision of the Sirius Building (DA 23/5644), subject to the conditions in the attached development consent
- **signs** the attached development consent (**Appendix D**).

Recommended by:



Lucinda Craig
A/ Senior Planning Officer
Key Sites Assessments

Recommended by:



Cameron Sargent
Team Leader
Key Sites Assessments

8 Determination

The recommendation is **adopted** by:



25/10/2023

Annie Leung
Acting Director
Key Sites Assessments

Glossary

Abbreviation	Definition
Applicant	Sirius Developments Pty Ltd
Council	City of Sydney Council
Department	Department of Planning and Environment
Eastern Harbour City SEPP	State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPI	Environmental planning instrument
ESD	Ecologically sustainable development
LEP	Local environmental plan
Minister	Minister for Planning and Public Spaces
NCC	National Construction Code
Planning Systems SEPP	State Environmental Planning Policy (Planning Systems) 2021
PM NSW	Place Management New South Wales
Secretary	Secretary of the Department of Planning and Environment
SEE	Statement of Environmental Effects
SEPP	State environmental planning policy

Appendices

Appendix A – List of referenced documents

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

Application Documentation and Response to Submissions

<https://www.planningportal.nsw.gov.au/daex/under-consideration/stratum-subdivision-sirius-building-rocks-da-235644>

Appendix B – Community views for Notice of Decision

Table 5 | Key issues and how they have been considered

Issue	Consideration
<p>Council matter:</p> <p>Council does not support an encroachment into the Cumberland Street road reserve</p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> • The Applicant confirmed the basement wall is approved to be construction at the boundary of Lot 100 in DP 264104 and would not extend beyond this allotment. • Lot 101 of DP 264104 remains unchanged and forms part of an existing basement cut that was created during the construction of the original building in 1980. • The Department is satisfied that the proposal would not create any encroachment into the Cumberland Street road reserve and that the existing Lot 101 in DP 264104 would remain unchanged. <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> • Condition A6 confirms that approval is not granted for any encroachment into or the use of the road reserve.
<p>Council matter:</p> <p>Landowner's consent would be required for the reconstruction of the drainage network within Gloucester Walk (Lot 6 in DP 776315) and approval is required from Council prior to connecting to the City's drainage system</p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> • The Applicant advised this matter was not relevant to the stratum subdivision application as no stormwater works or any physical works are proposed as part of this application. • This matter would be addressed under the approved application for the redevelopment of the Sirius site (SSD 10384). <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> • Condition A6 confirms that no physical works are approved as part of this application.
<p>Council matter:</p> <p>Recommended creation of a positive covenant over the water quality chamber in the basement for maintenance and repair</p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> • The Department considers the recommended condition is appropriate and have included it in the conditions of consent. <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> • Condition B13 references Council's recommendation for a positive covenant over all drainage systems involving On-Site Detention.
<p>Council matter:</p> <p>Recommended a list of easements and restrictions to be provided on the plan of subdivision</p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> • The Applicant and Council considers the recommended easements and restrictions are appropriate and should be included. <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> • The conditions of consent reference Council's recommendations.

Issue	Consideration
<p>Council matter:</p> <p>Recommended that public art is installed to Council's satisfaction prior to the issue of any Occupation Certificate</p>	<p><i>Assessment:</i></p> <ul style="list-style-type: none"> • The Applicant advised this matter was not relevant to the stratum subdivision application. • The Department agrees that all physical works, including the installation of public art, is regulated under SSD 10384. Condition D4 of that consent requires that evidence is submitted to the Certifier that all public art has been installed/implemented prior to the issue of any Occupation Certificate. <p><i>Recommended conditions:</i></p> <ul style="list-style-type: none"> • No recommended conditions.

Appendix C – Statutory considerations

Objects of the EP&A Act

A summary of the Department's consideration of the relevant objects (section 1.3 of the EP&A Act) are provided in **Table 6** below.

Table 6 | Objects of the EP&A Act and how they have been considered

Object	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,	<p>The proposal does not involve any physical works and would have no impact on the State's natural and other resources.</p> <p>The proposal is in accordance with the development consent for the redevelopment of the Sirius site (SSD 10384) and would facilitate the orderly use of this site.</p>
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,	Discussed below.
(c) to promote the orderly and economic use and development of land,	The proposal promotes the orderly and economic use and development of the land as it reflects the uses approved in the redevelopment of the site under SSD 10384.
(d) to promote the delivery and maintenance of affordable housing,	<p>Not applicable to the subdivision application.</p> <p>It is noted the Sirius building was sold in 2015 by the NSW Government to fund new social housing. The proceeds from the sale of the Sirius building would enable NSW Land and Housing Corporation to fund 338 social housing properties.</p>
(e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,	The proposal does not involve any physical works and therefore would not impact any threatened species, ecological communities or their habitats.
(f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),	The proposal does not involve any physical works and therefore would not impact any built or cultural heritage.

Object	Consideration
(g) to promote good design and amenity of the built environment,	<p>Not applicable to subdivision application.</p> <p>It is noted the redevelopment of the Sirius site (SSD 10384) was subject to a design excellence competition and is considered to exhibit a high standard of design.</p> <p>The proposal supports the development of the site in accordance with SSD 10384.</p>
(h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,	<p>The proposal does not involve any physical works.</p> <p>A condition of consent has been imposed requiring a Building/Strata Management Plan be prepared to address the ongoing maintenance, upgrading, redevelopment and structural adequacy of each stratum lot.</p>
(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,	<p>The Minister is the consent authority for the stratum subdivision of the site under Clause 4, Appendix 7 of the Eastern Harbour City SEPP.</p> <p>The Department consulted with Council and other relevant Government agencies on the proposal.</p>
(j) to provide increased opportunity for community participation in environmental planning and assessment.	Section 4 details the Department's engagement on the proposal.

Under section 4.55(3) of the EP&A Act, the consent authority must consider the matters referred to in section 4.15(1) of relevance to the development. **Table 7** identifies the matters for consideration under section 4.15 of the EP&A Act that apply to the proposed modification.

Table 7 | Consideration of the matters listed under section 4.15(1) of the EP&A Act

Section 4.15(1) Matters for consideration	The Department's assessment
(a)(i) any environmental planning instrument	The proposal complies with the relevant legislation as addressed in Section 3 and Appendix C .
(ii) any proposed instrument	Consideration of any proposed instruments is provided below.
(iii) any development control plan	Not applicable.
(iiia) any planning agreement	Not applicable.
(iv) the regulations	The application satisfactorily meets the relevant requirements of the EP&A Regulation, including the procedures relating to applications, the requirements for notification, and fees.

Section 4.15(1) Matters for consideration	The Department's assessment
(v) (repealed)	Not applicable.
(b) the likely impacts of that development including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,	The Department has assessed the likely impacts of the development and considers they are acceptable and/or have been appropriately managed by recommended conditions (Section 5).
(c) the suitability of the site for the development	The site is suitable for the development (Section 5).
(d) any submissions	Consideration has been given to the submissions received during the exhibition period (Section 5 and Appendix B)
(e) the public interest	The Department considers the proposal to be in the public interest, as it would facilitate the orderly and logical use, ownership and management of the retail, commercial and residential components of the approved building.

Ecologically sustainable development

The EP&A Act adopts the definition of ecologically sustainable development (ESD) found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- the precautionary principle.
- inter-generational equity.
- conservation of biological diversity and ecological integrity.
- improved valuation, pricing and incentive mechanisms.

The principles of ecologically sustainable development (ESD) are of little relevance to the subdivision application, which does not involve any physical works. However, ESD principles have been considered in the redevelopment of the Sirius building under SSD 10384. It is noted that retaining the existing building promotes a better environment by delivering a reduction in embodied energy.

Environmental Planning Instruments (EPIs)

To satisfy the requirements of section 4.15(a)(i) of the Act, this report includes references to the provisions of EPIs that govern the carrying out of the proposal, and have been taken into consideration in the Department's environmental assessment.

State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021

The Sirius site is listed as a State Significant Precinct under Appendix 7 of the Eastern Harbour City SEPP. In accordance with clause 4 of Appendix 7, the Minister for Planning and Public Spaces is the consent authority for development on the Sirius site.

Land within the Sirius site may be subdivided with consent under clause 6A, part 2 of Appendix 7 of the Eastern Harbour City SEPP.

Appendix D – Recommended instrument of consent

The recommended conditions of consent can be found on the Department of Planning and Environment's website at:

<https://www.planningportal.nsw.gov.au/daex/under-consideration/stratum-subdivision-sirius-building-rocks-da-235644>